



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,798	10/16/2003	Richard A. Sunshine	US20000055-I	7931

173 7590 08/25/2006

WHIRLPOOL PATENTS COMPANY - MD 0750
500 RENAISSANCE DRIVE - SUITE 102
ST. JOSEPH, MI 49085

EXAMINER

PERRIN, JOSEPH L

ART UNIT PAPER NUMBER

1746

DATE MAILED: 08/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/686,798

Applicant(s)

SUNSHINE ET AL.

Examiner

Joseph L. Perrin, Ph.D.

Art Unit

1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
4a) Of the above claim(s) 2-9 and 25-44 is/are withdrawn from consideration.
5) ☒ Claim(s) 1, 10-24 and 45-48 is/are allowed.
6) ☐ Claim(s) _____ is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

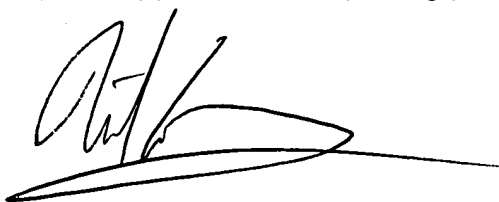
1. In view of the supplemental appeal brief filed on 21 June 2006, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

2. To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

3. A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

A handwritten signature in black ink, appearing to read 'Michael Barr', with a long horizontal flourish extending to the right.

**MICHAEL BARR
SUPERVISORY PATENT EXAMINER**

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 45 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant's original disclosure supports a cabinet assembly comprising a plurality of interconnecting panels (i.e. Figure 8 and relative associated text) or an alternate embodiment of a cabinet assembly comprising a plurality of panels carried by interconnected frame elements (i.e. Figure 9 and relative associated text). However, applicant's original disclosure as filed is wholly silent with respect to a cabinet assembly comprising both interconnecting panels and interconnecting frame elements as claimed. This is considered new matter and should be canceled from the claims.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1, 10-24 & 45-48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claimed discrete spaces "sized to house

Art Unit: 1746

a washing machine” and “sized to house a clothes dryer” fail to define the metes and bounds of the claimed patent protection sought. Since such appliances are readily available in various sizes, the claimed spaces do not clearly set forth the dimensions claimed, out of the vast number of possible washers and dryers which may or may not fit in such spaces. Applicant’s attempt to claim a void based on the intended use of a washer or dryer fails to particularly point out and distinctly claim the cabinet structure. It is noted that the recitation of a washer and clothes dryer is intended use and is only afforded patentable weight to the extent that the apparatus requires the capability to perform the intended use. Furthermore, claim 48 is directed to “the washing machine space and the clothes washer”. This is indefinite because it is unclear what is meant by this language since only a “washer” is recited. Are there more than one washers? Clarification and correction are required.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 10, 12-14, 20 & 45-47 rejected under 35 U.S.C. 102(b) as being anticipated by SANKA (previously cited). Re claims 1, 46, & 47, SANKA discloses (for instance in Figures 1-7 and relative associated text) a laundry cabinet assembly with interconnecting panels defining spaces including a discrete space capable of housing a

washer 40, a discrete space A capable of housing a "clothes dryer", a plurality of removable exterior decorative fascia panels 21-23 (fancy plywood), and an air moving device arranged to deliver air into and out of its own discrete space and at least part of space A (see air circuit dehumidification system of clothes dryer 30 in paragraphs [0030] – [0032]). Re claim 10, SANKA discloses a slidable shelf 70 (see paragraph [0023]). Re claims 12-13, SANKA further discloses a rod in the supplemental drying space for supporting clothes on a hanger (see Figure 6 and paragraph [0025]). Re claim 14, SANKA further discloses the cabinet having an open front side with cover panels 50/60 (see paragraph [0025] and Figures). Re claim 20, SANKA further discloses a perforated horizontal surface on the bottom of the drying space (see Figure 7). Re claim 45, SANKA discloses the cabinet being formed by installing panels 21-23 (see paragraphs [0014] & [0019]) which implicitly discloses the cabinet having a frame structure for fastening the panels thereto.

Regarding what is meant by "discrete space", it is noted that the terminology in a pending application's claims is to be given its broadest reasonable interpretation (*In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989)) and limitations from a pending application's specification will not be read into the claims (*Sjolund v. Musland*, 847 F.2d 1573, 1581-82, 6 USPQ2d 2020, 2027 (Fed. Cir. 1988)). Anticipation under 35 U.S.C. 5 102(b) is established only when a single prior art reference discloses, either expressly or under the principles of inherency, each and every element of a claimed invention. See *Constant v. Advanced Micro-Devices, Inc.*, 848 F.2d 1560, 1570, 7 USPQ2d 1057, 1064 (Fed. Cir.), cert. denied, 488 U.S. 892 (1988); *RCA Corp. v.*

Applied Digital Data Sys., Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984). Moreover, anticipation by a prior art reference does not require either the inventive concept of the claimed subject matter or the recognition of properties that are inherently possessed by the prior art reference. *Verdegaal Brothers Inc. v. Union Oil co. of California*, 814 F.2d 628, 633, 2 USPQ2d 1051, 1054 (Fed. Cir. 1987), cert. denied, 484 U.S. 827 (1987). A prior art reference anticipates the subject matter of a claim when that reference discloses each and every element set forth in the claim (*In re Paulsen*, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994) and *In re Spada*, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990)); however, the law of anticipation does not require that the reference teach what Applicant is claiming, but only that the claims "read on" something disclosed in the reference. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984) (and overruled in part on another issue), *SRI Intel v. Matsushita Elec. Corp. Of Am.*, 775 F.2d 1107, 1118, 227 USPQ 577, 583 (Fed. Cir. 1985). Also, a reference anticipates a claim if it discloses the claimed invention such that a skilled artisan could take its teachings in combination with his own knowledge of the particular art and be in possession of the invention. See *In re Graves*, 69 F.3d 1147, 1152, 36 USPQ2d 1697, 1701 (Fed. Cir. 1995), cert. denied, 116 S.Ct. 1362 (1996), quoting from *In re LeGrice*, 301 F.2d 929, 936, 133 USPQ 365, 372 (CCPA 1962). Thus, applicant's claimed "discrete space" limitations of the cabinet are construed to read on any void in a cabinet having a minimum size (i.e. "sized to house") capable of housing a "washer", a "clothes dryer", and an "air moving device". Such

discrete spaces are not limited or defined by individual walls defining each space but rather are given their broadest reasonable interpretation which reads on plural discrete spaces which cumulatively define a single discrete space. Clearly, this scope is contemplated by applicant given the fact that claim 48 recites two discrete spaces forming a single discrete space.

Accordingly, recitation of SANKA reads on each and every structural limitation of applicant's claimed invention as cited above.

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1, 12-16, 20 and 45-48 are rejected under 35 U.S.C. 102(b) as being anticipated by BALTES. BALTES discloses an integrated cabinet comprising plural discrete spaces and a dryer 1 having an air moving device 11 arranged to deliver air to the dryer space via an inlet and outlet, panels on the cabinet which read on "exterior decorative fascia panels", hanger rods 30, an open front with cover panel (door 7), the hanging device with rods 30 being slidable inward and outward (see Figures 5-6), fans 11 readable on a horizontal surface with a plurality of perforations (top openings of the fans) which permit air to pass through to the space, and the cabinet being formed by panels (see Figure 13) which implicitly discloses the cabinet having a frame structure for fastening the panels thereto (see Figures 1-2, 13 and relative associated text). Re

Art Unit: 1746

claim 48, the single space adjacent dryer 1 (see Figure 13) reads on the claimed combination of spaces to form a single space since the adjacent single space appears to be fully capable of performing the claimed intended use. (see also above regarding applicant's claimed "discrete space" limitations). The intended use of the spaces for a "washer" and "clothes dryer" are not afforded significant patentable weight (see intended use discussion above). A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In the instant case, the integrated laundry assembly in Figure 13 of BALTES contains discrete spaces which are fully capable of housing a "washer" and a "clothes dryer". This would be readily evident to one having ordinary skill in the art. Furthermore, the Examiner notes that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Accordingly, recitation of BALTES reads on applicant's claimed apparatus.

Claim Rejections - 35 USC § 103

12. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

13. Claims 11, 15-16 & 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over SANKA in view of PROCTOR (previously cited), as evidenced by U.S. Patent No. 3,811,198 to BALTES and CHAN (previously cited). Recitation of SANKA is repeated here from above. Although SANKA does disclose a drying space in the cabinet and a slidable shelf/rack, SANKA does not expressly disclose multiple slidable shelves/racks. PROCTOR teaches that it is well known to provide a drying cabinet with slidable drawers for supporting articles to be dried as well as accessing/extracting the article before and after drying (see page 2, line 1 *et seq.* of PROCTOR). Therefore, the position is taken that a person of ordinary skill in the art at the time the invention was made would have been motivated to modify the drying cabinet of SANKA with the slidable drawers of PROCTOR for the purpose of providing support and easy access to a plurality of articles which are to be dried. The courts have held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Nerwin v. Erlichman* 168 USPQ 177 (BPAI 1969); *In re Wolfe* 116 USPQ 443; *In re Howard*, 150 U.S. 164 (1893). The drawers of PROCTOR read on applicant's claimed "slidable shelves", "slidable rack" and "shoe dryer". Moreover, there would be a reasonable expectation of success for one having ordinary skill in the washing machine art to modify the washing machine cabinet of SANKA with its common knowledge functionality for washing and drying

Art Unit: 1746

clothes by combining the washing machine cabinet components of PROCTOR with its common knowledge functionality of drying clothes using a drying cabinet with slidable drawers for supporting articles to be dried in order to arrive at applicant's claimed invention. The combining of the common knowledge washing/drying cabinet components of SANKA and PROCTOR to arrive at applicant's integrated laundry center would be within the level and skill of one having ordinary skill in the art at the time the invention was made in order to provide a laundry center with comprehensive washing and drying functionality. This can be evidenced by BALTES which discloses a common knowledge drying component integrated in a multi-spaced cabinet system. Such integration can also be evidenced, for instance, by CHAN which teaches that it is well known in the art to provide a modular cabinet system which can be constructed in various combinations with plural discrete spaces of various sizes, shapes and drawers as well as duplicate parts to form an integrated cabinet assembly (see, for instance, the abstract and Figures). Accordingly, the position is taken that forming a multi-spaced laundry cabinet with the common knowledge functional components of SANKA and PROCTOR would be well within the level and knowledge of one having ordinary skill in the art at the time the invention was made. It is further noted that the use of the drawers are considered intended use and given little weight.

14. The Examiner notes that the record is silent with respect to any objective evidence regarding secondary considerations (i.e. objective evidence of non-obvious such as unexpected results)

15. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over SANKA or BALTES in view of RICE (previously cited) as evidenced by BALTES and CHAN. Recitation of SANKA and BALTES are repeated here from above. Although SANKA and BALTES do disclose a drying space in the cabinet, SANKA and BALTES does not expressly disclose shoe dryers. RICE teaches that it is well known to dry hollow articles such as boots and gloves using dryers by inserting heated air into the articles (col. 1, line 13 *et seq.*) and further discloses a portable dryer for such hollow articles with convenient portability and storage, the portable dryer having a bottom support 134, a stem portion 22 for insertion into the hollow article to be dried, an air flow outlet at the end of the stem 116/117, and an air moving device 16 (see col. 1, lines 7-11 & Figures 1-2, 6, and relative associated text). Therefore, the position is taken that a person of ordinary skill in the art at the time the invention was made would have been motivated to modify the drying cabinet of SANKA and BALTES with the portable shoe dryers of RICE for the purpose of improved, more efficient drying of hollow articles such as shoes. The combining of the common knowledge washing/drying cabinet components of SANKA/BALTES and RICE to arrive at applicant's integrated laundry center would be within the level and skill of one having ordinary skill in the art at the time the invention was made in order to provide a laundry center with comprehensive washing and drying functionality. This can be evidenced by BALTES which discloses a common knowledge drying component integrated in a multi-spaced cabinet system. Such integration can also be evidenced, for instance, by CHAN which teaches that it is well known in the art to provide a modular cabinet system which can be constructed in

various combinations with plural discrete spaces of various sizes, shapes and drawers as well as duplicate parts to form an integrated cabinet assembly (see, for instance, the abstract and Figures). Accordingly, the position is taken that forming a multi-spaced laundry cabinet with the common knowledge functional components of SANKA/BALTES and RICE would be well within the level and knowledge of one having ordinary skill in the art at the time the invention was made.

The Examiner notes that the record is silent with respect to any objective evidence regarding secondary considerations (i.e. objective evidence of non-obvious such as unexpected results)

Response to Arguments

16. Regarding the §112, first paragraph, (enablement) and the §103 rejection over SANKA in view TOSHIO '299 or TOSHIO '096 as evidenced by CHAN, applicant's arguments have been rendered moot by the withdrawal of these rejections.

17. Applicant's arguments filed 21 June 2006 with respect to the still pending rejections have been fully considered but they are not persuasive. Applicant's arguments are substantially cumulative to the previous response(s) and are still not persuasive for reasons of record.

Conclusion

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: U.S. Patent No. 3,402,477 to HUBBARD which teaches the well

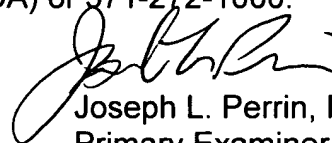
Art Unit: 1746

known concept of a cabinet housing a full size clothes drying machine and a supplemental drying compartment with blower located below the machine.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph L. Perrin, Ph.D. whose telephone number is (571)272-1305. The examiner can normally be reached on M-F 7:00-4:30, except alternate Fridays.

20. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael E. Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

21. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Joseph L. Perrin, Ph.D.
Primary Examiner
Art Unit 1746

jlp